

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

DIRECTV, INC.,)
)
)
 Plaintiff,)
)
)
 v.) 1:03CV447
)
)
MATT HAYES, BARNEY HILL,)
DOUG HILL, DARRELL HOLLAND,)
JAMES JACKSON, ANISSA JEFFERS,)
ESAU JAMES, BUREN JOURNIGAN,)
GREG KALLAM, RODERICK LITTLE,)
NORMAN MUSE, AND JOANN PARSONS,)
)
)
 Defendants.)

RECOMMENDATION OF MAGISTRATE JUDGE ELIASON

Plaintiff Directv has filed a motion for default judgment against defendant Esau James. An entry of default was previously made on June 21, 2005. Plaintiff seeks damages in the amount of \$10,000.00, costs in the amount of \$101.53, and attorney's fees in the amount of \$960.00, along with an injunction. The parties were notified on February 16, 2006 of their right to request a hearing, but did not do so.

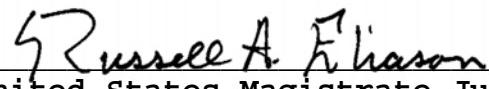
Plaintiff alleges that defendant Esau James illegally and without permission received or used its satellite television signals. Plaintiff relies on 47 U.S.C. § 605 which provides for actual damages or statutory damages of \$250.00 to \$10,000.00; 47 U.S.C. § 605(e)(4) which provides for enhanced statutory damages of \$10,000.00 to \$100,000.00 for aggravated violations; and 18 U.S.C. § 2520 which provides for actual damages or statutory damages of \$100.00 per day or \$10,000.00. The Court will consider imposing increased statutory damages if there is evidence of a willful violation for purposes of private financial gain or other

aggravating conduct. See Kingvision Pay-Per-View, Ltd. v. Scott E's Pub, Inc., 146 F. Supp. 2d 955 (E.D. Wis. 2001); Time Warner Cable of New York City v. Googies Luncheonette, Inc., 77 F. Supp. 2d 485 (S.D.N.Y. 1999); and Entertainment by J&J, Inc. v. Friends II, Inc., 2003 WL 1990414 (S.D.N.Y. 2003).

Plaintiff shows that defendant Esau James purchased one "Xtreme Sureshot Dual ISO Programmer" from SatUniverse, which sole or main purpose would be to decrypt satellite programming and requests statutory damages in the amount of \$10,000.00. Defendant Esau James has not provided any reason why these full statutory damages and the other relief requested should not be given to plaintiff. For these reasons,

IT IS RECOMMENDED that plaintiff's motion for entry of default judgment (docket no. 126) be granted and that default judgment be entered against defendant Esau James in the amount of \$10,000.00, along with costs in the amount of \$101.53, and attorney's fees in the amount of \$960.00, amounting to a sum of \$11,061.53, plus post-judgment interest at the legal rate in effect to accrue thereon from the date of Judgment forward until paid.

IT IS FURTHER RECOMMENDED that defendant Esau James be permanently enjoined from committing or assisting in the commission of any violation of the Cable Communications Policy Act, 47 U.S.C. § 605 or 18 U.S.C. §§ 2511 and 2520.



United States Magistrate Judge

April 14, 2006